

NOTICE OF APPEAL

**UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF NEW YORK**

PHL VARIABLE INSURANCE COMPANY,

Plaintiff,

-against-

TOWN OF OYSTER BAY,

Defendant.

NOTICE OF APPEAL

Case No. 16 Civ. 4013 (SJF) (AKT)

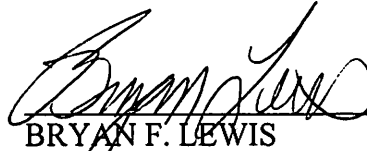
Notice is hereby given that PHL VARIABLE INSURANCE COMPANY (“PHL” or “plaintiff”), plaintiff in the above-named case, hereby appeals to the United States Court of Appeals for the Second Circuit from the Opinion and Order of the United States District Court for the Eastern District of New York, entered in this action on the 29th day of January, 2018 (“January 29, 2018 Order”).

The January 29, 2018 Order granted branches of plaintiff’s motion pursuant to Rules 59(e) and 60(b) of the Federal Rules of Civil Procedure (“FRCP”), and Local Civil Rule 6.3 of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York (“LR”), which sought reconsideration of the District Court’s prior Opinion and Order dated May 30, 2017 (“the May 30, 2017 Order”). Upon reconsideration of its May 30, 2017 Order, which had granted a motion to dismiss pursuant to Rule 12(b)(6) by defendant TOWN OF OYSTER BAY (“TOBAY”) and resulted in the entry of a final judgment in favor of defendant on June 2, 2017, the District Court vacated certain findings but otherwise adhered to its original determination of the May 30, 2017 Order. The District Court also denied the branches of

plaintiff's motion seeking leave to file a second amended complaint, and other relief pursuant to
FRCP Rule 60(b)(2).

Dated: Islandia, New York
February 27, 2018

By:

A handwritten signature in black ink, appearing to read "Bryan F. Lewis", is written over a horizontal line.

BRYAN F. LEWIS

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